

SCOTT N. SCHOOLS, SC SBN 9990
United States Attorney
JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
Chief, Civil Division
EDWARD A. OLSEN, CSBN 214150
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6915
FAX: (415) 436-6927

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DILBAR SABITOVA,
KHASHIYAT SABITOVA,

Plaintiffs,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
ROBERT S. MUELLER, Director of Federal
Bureau of Investigation,

Defendants.

No. C 07-3957 JSW

ANSWER

The Defendants hereby submit their answer to Plaintiffs' Complaint for Writ in the Nature of Mandamus and Declaratory Judgment Under 28 U.S.C. § 1361.

1. Paragraph One consists of plaintiffs' characterization of this action, to which no responsive pleading is required; however, to the extent a responsive pleading is necessary, defendants deny the allegation that they have improperly withheld action on the applications for adjustment of status to plaintiffs' detriment.

PARTIES

2. Defendants admit the allegations in Paragraph Two.

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3. Defendants admit the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four with the exception of the characterization that the defendants have “failed” to complete the necessary background and security checks.

JURISDICTION

5. Paragraph Five consists of plaintiffs’ allegations regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Five.

VENUE

6. Paragraph Six consists of plaintiffs’ allegations regarding venue, to which no responsive pleading is required.

EXHAUSTION OF REMEDIES

7. Defendants deny the allegations in Paragraph Seven.

CAUSE OF ACTION

8. Defendants admit the allegations in Paragraph Eight, with the exception of the allegation that their cases might have been closed.

9. Defendants admit the allegations in Paragraph Nine.

10. Defendants deny the allegations in Paragraph Ten.

11. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Eleven, but deny that plaintiffs are unable to pursue foreign travel.

12. Defendants deny the allegations in Paragraph Twelve.

PRAYER

13. Paragraph Thirteen consists of plaintiffs’ prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

____Plaintiffs’ complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The court should dismiss the Complaint for lack for subject matter jurisdiction.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for defendants and against plaintiffs, dismissing plaintiffs' Complaint with prejudice; that plaintiffs take nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: October 5, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Defendants